

AMENDED IN ASSEMBLY AUGUST 16, 1999

AMENDED IN ASSEMBLY JULY 13, 1999

AMENDED IN ASSEMBLY JUNE 16, 1999

AMENDED IN ASSEMBLY JUNE 2, 1999

AMENDED IN SENATE APRIL 13, 1999

AMENDED IN SENATE APRIL 5, 1999

AMENDED IN SENATE JANUARY 25, 1999

SENATE BILL

No. 15

Introduced by Senator Polanco

December 7, 1998

An act to add Chapter 1.3 (commencing with Section 12125) to Title 2 of Part 4 of the Penal Code, relating to firearms.

LEGISLATIVE COUNSEL'S DIGEST

SB 15, as amended, Polanco. Firearms.

Existing law makes it a misdemeanor or felony to manufacture or cause to be manufactured, import into the state, keep for sale, offer or expose for sale, give, lend, or possess specified weapons, but not including an unsafe handgun.

This bill, commencing January 1, 2001, would make it a misdemeanor to manufacture or cause to be manufactured, import into the state for sale, keep for sale, offer or expose for sale, give, or lend any unsafe handgun, except as specified. By

creating new crimes, this bill would impose a state-mandated local program.

This bill additionally would require every person licensed to manufacture firearms pursuant to federal law who manufactures firearms in this state and every person who imports into the state for sale, keeps for sale, or offers or exposes for sale any firearm to certify under penalty of perjury that every model, kind, class, style, or type of pistol, revolver, or other firearm capable of being concealed upon the person that he or she manufactures or imports, keeps, or exposes for sale is not a prohibited unsafe handgun. By expanding the crime of perjury, this bill would impose a state-mandated local program.

The bill also would require any pistol, revolver, or other firearm capable of being concealed upon the person manufactured in this state, imported into the state for sale, kept for sale, or offered or exposed for sale, to be tested by an independent laboratory certified by the Department of Justice to determine whether that pistol, revolver, or other firearm capable of being concealed upon the person meets or exceeds specified standards defining unsafe handguns. The bill would require the Department of Justice to certify laboratories for this purpose on or before January 1, 2001.

The bill also would require the Department of Justice, on and after January 1, 2001, to compile, publish, and thereafter maintain a roster listing all of the pistols, revolvers, and other firearms capable of being concealed upon the person that are not unsafe handguns by the manufacturer, model number, and model name. The bill would specify that its provisions do not apply to the sale, loan, or transfer of any pistol, revolver, or other firearm capable of being concealed upon the person listed as a curio or relic. The bill would authorize the department to charge every person in this state who is licensed as a manufacturer of firearms pursuant to federal law, and any person in this state who manufactures or causes to be manufactured, imports into the state for sale, keeps for sale, or offers or exposes for sale any pistol, revolver, or other firearm capable of being concealed upon the person in this state, an annual fee not exceeding the costs of preparing, publishing, and maintaining the roster and the costs of



research and development, report analysis, firearms storage, and other program infrastructure costs necessary to implement the bill.

The bill would state the intent of the Legislature that the Department of Justice pursue an internal loan from special fund revenues available to the department to cover startup costs for the unsafe handgun program established pursuant to the bill. The bill would require the department to repay any loan with the proceeds of fees collected under that program within 6 months.

The California Constitution requires the state to reimburse local agencies and school districts for certain costs mandated by the state. Statutory provisions establish procedures for making that reimbursement.

This bill would provide that no reimbursement is required by this act for a specified reason.

Vote: majority. Appropriation: no. Fiscal committee: yes. State-mandated local program: yes.

The people of the State of California do enact as follows:

1 SECTION 1. Chapter 1.3 (commencing with Section
2 12125) is added to Title 2 of Part 4 of the Penal Code, to
3 read:

4
5 CHAPTER 1.3. UNSAFE HANDGUNS
6

7 12125. (a) Commencing January 1, 2001, any person
8 in this state who manufactures or causes to be
9 manufactured, imports into the state for sale, keeps for
10 sale, offers or exposes for sale, gives, or lends any unsafe
11 handgun shall be punished by imprisonment in a county
12 jail not exceeding one year.

13 (b) This section shall not apply to any of the following:

14 (1) The manufacture in this state, or importation into
15 this state, of any prototype pistol, revolver, or other
16 firearm capable of being concealed upon the person
17 when the manufacture or importation is for the sole
18 purpose of allowing an independent laboratory certified
19 by the Department of Justice pursuant to Section 12130

1 to conduct an independent test to determine whether
2 that pistol, revolver, or other firearm capable of being
3 concealed upon the person is prohibited by this chapter,
4 and, if not, for the department to add the firearm to the
5 roster of pistols, revolvers, and other firearms capable of
6 being concealed upon the person that may be sold in this
7 state pursuant to Section 12131.

8 (2) The importation or lending of a pistol, revolver, or
9 other firearm capable of being concealed upon the
10 person by employees or authorized agents determining
11 whether the weapon is prohibited by this section.

12 (3) Firearms listed as curios or relics, as defined in
13 Section 178.11 of Title 27 of the Code of Federal
14 Regulations.

15 (4) The sale to, purchase by, or possession of any pistol,
16 revolver or other firearm capable of being concealed
17 upon the person by the Department of Justice, any police
18 department, any sheriff's official, any marshal's office, the
19 Youth and Adult Correctional Agency, the California
20 Highway Patrol, any district attorney's office, and the
21 military or naval forces of this state or of the United States
22 for use in the discharge of their official duties. Nor shall
23 anything in this section prohibit the possession of any
24 pistol, revolver, or other firearm capable of being
25 concealed upon the person by sworn members of these
26 agencies, whether the sworn member is on or off duty, or
27 an individual who is retired from service with a law
28 enforcement agency and who is not otherwise prohibited
29 from possessing a concealable firearm upon his or her
30 retirement.

31 (c) Violations of subdivision (a) are cumulative with
32 respect to each handgun and shall not be construed as
33 restricting the application of any other law. However, an
34 act or omission punishable in different ways by this
35 section and other provisions of law shall not be punished
36 under more than one provision, but the penalty to be
37 imposed shall be determined as set forth in Section 654.

38 12126. As used in this chapter, "unsafe handgun"
39 means any pistol, revolver, or other firearm capable of
40 being concealed upon the person, as defined in

1 subdivision (a) of Section 12001, for which any of the
2 following is true:

3 (a) For a revolver:

4 (1) It does not have a safety device that, either
5 automatically in the case of a double-action firing
6 mechanism, or by manual operation in the case of a
7 single-action firing mechanism, causes the hammer to
8 retract to a point where the firing pin does not rest upon
9 the primer of the cartridge.

10 (2) It does not meet the firing requirement for
11 handguns pursuant to Section 12127.

12 (3) It does not meet the drop safety requirement for
13 handguns pursuant to Section 12128.

14 (b) For a pistol:

15 (1) It does not have a positive manually operated
16 safety device, *as determined by standards relating to*
17 *imported guns promulgated by the federal Bureau of*
18 *Alcohol, Tobacco, and Firearms.*

19 (2) It does not meet the firing requirement for
20 handguns pursuant to Section 12127.

21 (3) It does not meet the drop safety requirement for
22 handguns pursuant to Section 12128.

23 12127. (a) As used in this chapter, the “firing
24 requirement for handguns” means a test in which the
25 manufacturer provides three handguns of the make and
26 model for which certification is sought, these handguns
27 not being in any way modified from those that would be
28 sold if certification is granted, to an independent testing
29 laboratory certified by the Attorney General pursuant to
30 Section 12130. The laboratory shall fire 600 rounds from
31 each gun, stopping after each series of 50 rounds has been
32 fired for 5 to 10 minutes to allow the weapon to cool,
33 stopping after each series of 100 rounds has been fired to
34 tighten any loose screws and clean the gun in accordance
35 with the manufacturer’s instructions, and stopping as
36 needed to refill the empty magazine or cylinder to
37 capacity before continuing. The ammunition used shall
38 be of the type recommended by the handgun
39 manufacturer in the user manual, or if none is
40 recommended, any standard ammunition of the correct

1 caliber in new condition. A handgun shall pass this test if
2 each of the three test guns meets both of the following:

3 (1) Fires the first 20 rounds without a malfunction that
4 is not due to faulty magazine or ammunition.

5 (2) Fires the full 600 rounds with no more than six
6 malfunctions that are not due to faulty magazine or
7 ammunition and without any crack or breakage of an
8 operating part of the handgun that increases the risk of
9 injury to the user.

10 (b) If a pistol or revolver fails the requirements of
11 either paragraph (1) or (2) of subdivision (a) due to
12 either a faulty magazine or faulty ammunition, the pistol
13 or revolver shall be retested from the beginning of the
14 “firing requirement for handguns” test. A new model of
15 the pistol or revolver that failed due to a faulty magazine
16 or ammunition may be submitted for the test to replace
17 the pistol or revolver that failed.

18 (c) As used in this section, “malfunction” means a
19 failure to properly feed, fire, or eject a round, or failure
20 of a pistol to accept or reject a manufacturer-approved
21 magazine, or failure of a pistol’s slide to remain open after
22 a manufacturer-approved magazine has been expended.

23 12128. As used in this chapter, the “drop safety
24 requirement for handguns” means that at the conclusion
25 of the firing requirements for handguns described in
26 Section 12127, the same certified independent testing
27 laboratory shall subject the same three handguns of the
28 make and model for which certification is sought, to the
29 following test:

30 A primed case (no powder or projectile) shall be
31 inserted into the chamber. For pistols, the slide shall be
32 released, allowing it to move forward under the impetus
33 of the recoil spring, and an empty magazine shall be
34 inserted. For both pistols and revolvers, the weapon shall
35 be placed in a drop fixture capable of dropping the pistol
36 from a drop height of 1m + 1cm (39.4 + 0.4 in.) onto the
37 largest side of a slab of solid concrete having minimum
38 dimensions of 7.5 × 15 × 15 cm (3 × 6 × 6 in.). The drop
39 distance shall be measured from the lowermost portion of
40 the weapon to the top surface of the slab. The weapon



1 shall be dropped from a fixture and not from the hand.
2 The weapon shall be dropped in the condition that it
3 would be in if it were dropped from a hand (cocked with
4 no manual safety applied). If the design of a pistol is such
5 that upon leaving the hand a “safety” is automatically
6 applied by the pistol, this feature shall not be defeated. An
7 approved drop fixture is a short piece of string with the
8 weapon attached at one end and the other end held in an
9 air vise until the drop is initiated.

10 The following six drops shall be performed:

- 11 (a) Normal firing position with barrel horizontal.
- 12 (b) Upside down with barrel horizontal.
- 13 (c) On grip with barrel vertical.
- 14 (d) On muzzle with barrel vertical.
- 15 (e) On either side with barrel horizontal.
- 16 (f) If there is an exposed hammer or striker, on the
17 rearmost point of that device, otherwise on the rearmost
18 point of the weapon.

19 The primer shall be examined for indentations after
20 each drop. If indentations are present, a fresh primed case
21 shall be used for the next drop.

22 The handgun shall pass this test if each of the three test
23 guns does not fire the primer.

24 12129. Every person who is licensed as a
25 manufacturer of firearms pursuant to Chapter 44
26 (commencing with Section 921) of Title 18 of the United
27 States Code who manufactures firearms in this state, and
28 every person who imports into the state for sale, keeps for
29 sale, or offers or exposes for sale any firearm, shall certify
30 under penalty of perjury and any other remedy provided
31 by law that every model, kind, class, style, or type of pistol,
32 revolver, or other firearm capable of being concealed
33 upon the person that he or she manufactures or imports,
34 keeps, or exposes for sale is not an unsafe handgun as
35 prohibited by this chapter.

36 12130. (a) Any pistol, revolver, or other firearm
37 capable of being concealed upon the person
38 manufactured in this state, imported into the state for
39 sale, kept for sale, or offered or exposed for sale, shall be
40 tested within a reasonable period of time by an

1 independent laboratory certified pursuant to subdivision
2 (b) to determine whether that pistol, revolver, or other
3 firearm capable of being concealed upon the person
4 meets or exceeds the standards defined in Section 12126.

5 (b) On or before October 1, 2000, the Department of
6 Justice shall certify laboratories to verify compliance with
7 the standards defined in Section 12126. The department
8 may charge any laboratory that is seeking certification to
9 test any pistol, revolver, or other firearm capable of being
10 concealed upon the person pursuant to this chapter a fee
11 not exceeding the costs of certification.

12 (c) The certified testing laboratory shall, at the
13 manufacturer's or importer's expense, test the firearm
14 and submit a copy of the final test report directly to the
15 Department of Justice along with a prototype of the
16 weapon to be retained by the department. The
17 department shall notify the manufacturer or importer of
18 its receipt of the final test report and the department's
19 determination as to whether the firearm tested may be
20 sold in this state.

21 12131. (a) On and after January 1, 2001, the
22 Department of Justice shall compile, publish, and
23 thereafter maintain a roster listing all of the pistols,
24 revolvers, and other firearms capable of being concealed
25 upon the person that have been tested by a certified
26 testing laboratory, have been determined not to be
27 unsafe handguns, and may be sold in this state pursuant
28 to this title. The roster shall list, for each firearm, the
29 manufacturer, model number, and model name.

30 (b) (1) The department may charge every person in
31 this state who is licensed as a manufacturer of firearms
32 pursuant to Chapter 44 (commencing with Section 921)
33 of Title 18 of the United States Code, and any person in
34 this state who manufactures or causes to be
35 manufactured, imports into the state for sale, keeps for
36 sale, or offers or exposes for sale any pistol, revolver, or
37 other firearm capable of being concealed upon the
38 person in this state, an annual fee not exceeding the costs
39 of preparing, publishing, and maintaining the roster
40 pursuant to subdivision (a) and the costs of research and

1 development, report analysis, firearms storage, and other
2 program infrastructure costs necessary to implement this
3 chapter.

4 (2) Any pistol, revolver, or other firearm capable of
5 being concealed upon the person that is manufactured by
6 a manufacturer who manufactures or causes to be
7 manufactured, imports into the state for sale, keeps for
8 sale, or offers or exposes for sale any pistol, revolver, or
9 other firearm capable of being concealed upon the
10 person in this state, and who fails to pay any fee required
11 pursuant to paragraph (1), may be excluded from the
12 roster.

13 12131.5. (a) A firearm shall be deemed to satisfy the
14 requirements of subdivision (a) of Section 12131 if
15 another firearm made by the same manufacturer is
16 already listed and the unlisted firearm differs from the
17 listed firearm only in one or more of the following
18 features:

19 (1) Finish, including, but not limited to, bluing,
20 chrome-plating, oiling, or engraving.

21 (2) The material from which the grips are made.

22 (3) The shape or texture of the grips, so long as the
23 difference in grip shape or texture does not in any way
24 alter the dimensions, material, linkage, or functioning of
25 the magazine well, the barrel, the chamber, or any of the
26 components of the firing mechanism of the firearm.

27 (4) Any other purely cosmetic feature that does not in
28 any way alter the dimensions, material, linkage, or
29 functioning of the magazine well, the barrel, the
30 chamber, or any of the components of the firing
31 mechanism of the firearm.

32 (b) Any manufacturer seeking to have a firearm listed
33 under this section shall provide to the Department of
34 Justice all of the following:

35 (1) The model designation of the listed firearm.

36 (2) The model designation of each firearm that the
37 manufacturer seeks to have listed under this section.

38 (3) A statement, under oath, that each unlisted
39 firearm for which listing is sought differs from the listed
40 firearm only in one or more of the ways identified in

1 subdivision (a) and is in all other respects identical to the
2 listed firearm.

3 (c) The department may, in its discretion and at any
4 time, require a manufacturer to provide to the
5 department any model for which listing is sought under
6 this section, to determine whether the model complies
7 with the requirements of this section.

8 12132. This chapter shall not apply to any of the
9 following:

10 (a) The sale, loan, or transfer of any firearm pursuant
11 to Section 12082 or 12084 in order to comply with
12 subdivision (d) of Section 12072.

13 (b) The sale, loan, or transfer of any firearm that is
14 exempt from the provisions of subdivision (d) of Section
15 12072 pursuant to any applicable exemption contained in
16 Section 12078, if the sale, loan, or transfer complies with
17 the requirements of that applicable exemption to
18 subdivision (d) of Section 12072.

19 (c) The sale, loan, or transfer of any firearm as
20 described in paragraph (3) of subdivision (b) of Section
21 12125.

22 (d) The delivery of a pistol, revolver, or other firearm
23 capable of being concealed upon the person to a person
24 licensed pursuant to Section 12071 for the purposes of the
25 service or repair of that firearm.

26 (e) The return of a pistol, revolver, or other firearm
27 capable of being concealed upon the person by a person
28 licensed pursuant to Section 12071 to its owner where that
29 firearm was initially delivered in the circumstance set
30 forth in subdivision (d).

31 (f) The return of a pistol, revolver, or other firearm
32 capable of being concealed upon the person by a person
33 licensed pursuant to Section 12071 to its owner where that
34 firearm was initially delivered to that licensee for the
35 purpose of a consignment sale or as collateral for a
36 pawnbroker loan.

37 (g) The sale, loan, or transfer of any pistol, revolver, or
38 other firearm capable of being concealed upon the
39 person listed as a curio or relic, as defined in Section
40 178.11 of the Code of Federal Regulations.



1 12133. The provisions of this chapter shall not apply to
2 a single-action revolver that has at least a five-cartridge
3 capacity with a barrel length of not less than three inches,
4 and meets any of the following specifications:

5 (a) Was originally manufactured prior to 1900 and is a
6 curio or relic, as defined in Section 178.11 of Title 27 of the
7 Code of Federal Regulations.

8 (b) Has an overall length measured parallel to the
9 barrel of at least seven and one-half inches when the
10 handle, frame or receiver, and barrel are assembled.

11 (c) Has an overall length measured parallel to the
12 barrel of at least seven and one-half inches when the
13 handle, frame or receiver, and barrel are assembled and
14 that is currently approved for importation into the United
15 States pursuant to the provisions of paragraph (3) of
16 subsection (d) of Section 925 of Title 18 of the United
17 States Code.

18 SEC. 2. It is the intent of the Legislature that the
19 Department of Justice pursue an internal loan from
20 special fund revenues available to the department to
21 cover startup costs for the program established pursuant
22 to Section 1 of this act. Any loan shall be repaid with the
23 proceeds of fees collected under that program within six
24 months.

25 SEC. 3. No reimbursement is required by this act
26 pursuant to Section 6 of Article XIII B of the California
27 Constitution because the only costs that may be incurred
28 by a local agency or school district will be incurred
29 because this act creates a new crime or infraction,
30 eliminates a crime or infraction, or changes the penalty
31 for a crime or infraction, within the meaning of Section
32 17556 of the Government Code, or changes the definition
33 of a crime within the meaning of Section 6 of Article
34 XIII B of the California Constitution.

1	
2	CORRECTIONS
3	Digest — Page 2.
4	
5	

